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UNCLAS SECTION 01 OF 02 QUITO 000159

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SECSTATE PLEASE PASS TO US TRADE REPRESENTATIVE

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SUBJECT: LABOR CODE REFORM PROPOSALS AND PROSPECTS

REF: QUITO 82

1. (U) Summary: Minister of Labor Raul Izurieta plans to announce a labor code reform package in February, which he expects to submit to Congress in April. The reforms would permit the formation of industry-wide unions, as well as include various pro-business competitiveness initiatives. Izurieta is making efforts to bring business and union leaders together and is proposing candidates to head the MOL's tripartite National Labor Council. Izurieta also said a new round of labor inspections would begin this month with newly hired labor inspectors (bringing the total of child labor inspectors to 24).

2. (SBU) In our view, the MOL initiative is encouraging, but insufficient to answer USG concerns on freedom of association and child labor. To supplement the GOE's current reform package, we hope to use an independent consultant to help guide the GOE toward ILO-consistent reforms and short-term non-legislative remedies. To do so, we need to convince the GOE to formally request this technical assistance of AID. We are prepared to do this, unless Washington agencies object. Izurieta has extended an invitation to the AUSTR for Labor to visit Ecuador, which could offer another opportunity to press for near-term progress. End Summary.

Minister to Announce Labor Reform Proposal

3. (SBU) Izurieta told LabOff on January 19 that he expects to publicize a labor reform in February and give the public two months to review it. Izurieta also extended an invitation to AUSTR for Labor William Clatanoff to visit Ecuador in February to observe the labor situation. Izurieta plans on sending the proposal to Congress in April. He says he cannot yet predict its chances of passing through Congress as the new Labor Commission has just formed. Izurieta said he is worried it will be hard to work with its new president since he is a member of the far-left MPD party. Izurieta denied the President had called a meeting to discuss labor code reform where Izurieta, the Minister of Jose Chavez of the CEOSL confederation, and others were present (reftel). Izurieta said Dr. Marcos Ponce of the ILO is helping draft the labor code reform proposal. He is an independent consultant and will give Izurieta his work this week. The Inter-American Development Bank is paying him \$5000 for this project.

4. (U) Izurieta has previously told LabOff and press of 12 points that he would like to reform. In the meeting with LabOff, Izurieta said hourly work will be regulated with an upcoming Presidential decree. Izurieta also stated the following points would be included in the upcoming labor code reform proposal: industry-wide unions, company retirement, profit sharing, limiting length of strikes, job creation and dismissal notices. Izurieta did not list the full 12 points.

5. (U) LabOff asked Izurieta if reinstatement or anti-union discrimination in hiring would be included in the reform proposal. He said that the labor code guarantees not only freedom of association, but also freedom in hiring, and for that reason the government cannot force a private company to hire someone. Izurieta said reinstatement does exist in the public sector.

Industry-Wide Unions To Be Included in Reform

6. (U) Izurieta told LabOff that the labor code reform would explicitly permit industry-wide unions in Ecuador. He said that currently these are neither explicitly permitted nor prohibited in Ecuadorian law. Regarding the flower industry-wide union whose application had been denied three times, he said the reason they were denied previously was that the three companies that had employed the workers all had closed. He said after the labor reform, there should be no impediment to the formation of industry-wide unions, however, workers have to be employed by an active company.

Izurieta Meets with Business and Unions

17. (U) Izurieta said that on January 18, he brought Roberto Pena, president of the Chamber of Industries, and union leader Mesias Tatamuez, together for a three-hour meeting. Izurieta said his goal is to lower the tensions and improve business-labor relations. He said he is planning another meeting with the two leaders. Izurieta also said on January 18 he met with union leaders to discuss difficulties in registering unions. He said his staff is meetings with unions to analyze the situation.

Subcontracting Decree May Be Changed

18. (U) Izurieta said he is planning a meeting with unions to discuss the probable modification of the subcontracting decree. Izurieta said Jaime Arciniegas, leader of the largest union confederation, has told him he would support the decree if the percentage of workers that can be subcontracted were taken out. Business leader Alberto Dassum has told Izurieta he thinks the percentage should be unlimited. Izurieta said the Constitutional Tribunal will have the final say on the percentage issue, since business has appealed it.

19. (U) Izurieta had previously told LabOff that the Ministry had extended the deadline for companies to register with the MOL in order for them to have time to change their by-laws. Registration with the MOL is a requirement of last October's Presidential subcontracting decree. Izurieta explained to LabOff that subcontracting companies had to change their by-laws because the decree says subcontracting companies can only perform subcontracting and other related activities, such as training. This clause is intended to prevent phantom companies.

New Round of MOL Inspections

10. (U) Izurieta said a round of inspections for compliance with the labor code, health and safety, subcontracting companies, and child labor will begin next week. He said there are now 24 child labor inspectors, with one in each province except for Pichincha and Guayas, which each have two. He said there are many new inspectors and there will be a training workshop for them next week.

Comment: The Way Forward

11. (SBU) We are most encouraged by the MOL's willingness to work with the ILO on a labor code reform package to permit industrial unions (a reversal for this Government) and encourage better business-labor relations. However, in our view, the MOL's reforms do not sufficiently address USG labor rights concerns. We therefore recommend that we use a contractor to help the GOE develop a more balanced labor reform proposal, preferably involving short-term remedies that do not require legislation. In addition, without labor/management consensus, the MOL's reforms or any labor code reforms are unlikely to flourish in the current fractious Congress.

12. (SBU) We and visiting USG labor officials have encouraged the ILO reps in Ecuador to work with the MOL, business, and unions on labor code reform, with limited success. We therefore believe it is necessary for outside, but ILO-consistent, assistance. We also suggest that USTR consider accepting the Minister's invitation to visit Ecuador in the upcoming months. Ideally, a USTR visit would coincide with a visit from the new consultant.
Chacon